

Message

From: Prabhu, Aditi [Prabhu.Aditi@epa.gov]
Sent: 9/17/2018 2:07:46 PM
To: Brundage, Jennifer [Brundage.Jennifer@epa.gov]; Buffo, Corey [Buffo.Corey@epa.gov]; Fleisig, Erica [Fleisig.Erica@epa.gov]
CC: Schroer, Lee [schroer.lee@epa.gov]
Subject: Friday filings in Maine v. EPA
Attachments: DENVER-#624012-v1-Maine_Maine_s_Opposition_to_EPA_s_motion_for_voluntary_remand.PDF; DENVER-#624011-v1-Maine_As-Filed_EPA_s_Response_to_PIN_s_Motion_to_File_Counterclaim.PDF; DENVER-#624010-v1-Maine_Maine_s_Opposition_to_PIN_s_Motion_to_File_Counterclaim.PDF

Hi everyone,

Attached are three filings in Maine v. EPA from Friday 9/14:

1. Maine's response to EPA's motion for voluntary remand (7 pgs): Maine asks for our decisions to be vacated, but in the alternative requests that the court hold the case in abeyance and set a schedule for EPA to act on remand. Maine suggests four months. Tribes' opposition is due 9/28. Our reply is due 10/12.
2. EPA's response to the Penobscot motion to file a counterclaim (taking no position)
3. Maine's opposition to the Penobscot motion to file a counterclaim

Please let me know if you have any questions or want to discuss. We can add #1 to the agenda for our Thursday workgroup meeting.

Aditi

Aditi Prabhu
Office of General Counsel
U.S. Environmental Protection Agency
(202)564-2473

From: Schroer, Lee
Sent: Monday, September 17, 2018 9:02 AM
To: Prabhu, Aditi
Subject: FW: Today's filings in Maine

Aditi,

Please forward to the OST folks on the workgroup.

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From: Carson, David A (ENRD) [mailto:David.A.Carson@usdoj.gov]
Sent: Friday, September 14, 2018 11:49 AM

To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Siegal, Tod <Siegal.Tod@epa.gov>; Williamson, Timothy <Williamson.Tim@epa.gov>; Williams, Ann <Williams.Ann@epa.gov>; Knapp, Michael <Knapp.Michael@epa.gov>

Subject: Today's filings in Maine

Hi all: Attached are all the filings anticipated in Maine today. I have not yet read Maine's opposition to PIN's motion to file a counterclaim. In its opp to our motion, as anticipated, Maine asks for vacatur and alternatively asks that the court retain jurisdiction and set a schedule. Maine suggests 4 months.

I would like to have a call with the team early next week to discuss what we will say in our reply with respect to Maine's arguments, and also to discuss a schedule for drafts and review. We will not receive the Tribe's opposition until September 28. If possible, I think it would make sense for me to draft and for you to comment on the Maine-centric arguments before the 28th. Of course, that argument could still change somewhat if we need more space to address the Tribes' arguments. While I tend to doubt the court would find that EPA may not obtain a remand and revise its decisions based on the Tribes' arguments, those arguments may nonetheless be somewhat tricky to deal with. So, I would like to have time to coordinate on those independent of dealing with Maine's arguments. The Tribes will most certainly not want vacatur and whatever we say in defense of our schedule will mostly apply across-the-board. So I anticipate the reply arguments will be largely different with respect to Maine and the Tribes.

Thanks,

Dave